



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

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Docket No. 6849-23
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 24 October 2023. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies, as well as the 21 July 2023 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 19 May 2023 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision and the AO were provided to you on 21 July 2023, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board carefully considered your request to remove your fitness report for the reporting period 1 June 2021 to 22 November 2021, alternatively, you request to change the Reporting Senior (RS) portion to be not observed. If approved, you request to remove your failure of selection. The Board considered your contentions that according to the Marine Corps Performance Evaluation System (PES) Manual, the RS must take care when making section I comments to ensure that the comments neither conflict with, nor obscure, the remainder of the evaluation, and should avoid the temptation to intentionally mark attributes in a manner that ensures the relative value will be at the bottom of their profile, while simultaneously writing laudatory comments in section I to mislead the Marine Reported On into believing the overall report is laudatory. You also contend that commendatory material was omitted, the RS extended the reporting period by seven weeks without your knowledge, and you were not under the RS's supervision during those seven week. You claim that the RS did not have a relative value when

the fitness report was processed, you were not counseled, and you were led to believe the fitness report was commendatory and positive. As evidence, you provided a letter of appreciation, a subsequent fitness report by a different RS, command chronology, and narrative of events for consideration.

The Board, however, substantially concurred with the AO and PERB decision that, in accordance with applicable PES Manual guidance, the fitness report is valid as written and filed. In this regard, the Board noted that you provided sufficient evidence that the fitness report was extended beyond your transfer date. Had the fitness report not been extended, the Board determined that the RS still had more than the minimum period of 90-days observation to evaluate your performance and conduct. The Board determined that the section I comments were not overly laudatory or in violation of the PES Manual. The Board further determined the PES Manual recommends, but does not require counseling and dissatisfaction with the relative value is not a basis for the removal or modification of your contested fitness report. Concerning a correction to the end date of the fitness report and addition of commendatory material, the Board determined that the errors are administrative in nature, therefore, you must exhaust your administrative remedies by submitting a request for correction to MMRP-31. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

Regarding your request to remove your failure of selection, the Board found no compelling evidence that the contested fitness report caused you to fail selection for promotion. As such, the Board concluded that your request does not warrant relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

11/14/2023

